



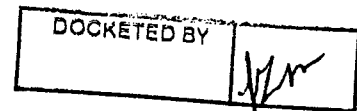
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## BEFORE THE ARIZONA CORPORATION COMMISSION

DOCKETED

JUL 21 1999



DOCKET NO. T-00000A-97-0238

DECISION NO. 61837ORDER

CARL J. KUNASEK  
CHAIRMAN  
JIM IRVIN  
COMMISSIONER  
WILLIAM A. MUNDELL  
COMMISSIONER

IN THE MATTER OF U S WEST  
COMMUNICATIONS, INC.'S COMPLIANCE  
WITH § 271 OF THE TELECOMMUNICATIONS  
ACT OF 1996.

**BY THE COMMISSION:**

On May 27, 1997, the Arizona Corporation Commission ("Commission") issued Decision No. 60218 in the above-captioned matter. Decision No. 60218 described the process by which U S WEST Communications, Inc. ("US WEST") would submit information for the Commission to review and recommend to the Federal Communications Commission ("FCC") whether US WEST meets the requirements of § 271 of the Telecommunications Act of 1996. Our June 16, 1998 Procedural Order authorized additional discovery and responses to replies and comments.

On February 8, 1999, US WEST filed a Notice of Intent to File with FCC and Application for Verification of § 271(c) Compliance ("Application"), and a Motion for Immediate Implementation of Procedural Order ("Motion"). US WEST stated its intent to file an application with the FCC to obtain approval to provide interLATA service, no sooner than ninety days from the date of the filing. US WEST did not include any pre-filed testimony, and proposed simultaneous discovery by interested parties and US WEST.

Our March 2, 1999 Procedural Order found the US WEST Application to be insufficient and not in compliance with Decision No. 60218. The Application was held in abeyance pending supplementation with US WEST's case-in-chief, including direct testimony. On March 25, 1999, US WEST filed its supplementation. Our April 7, 1999, Procedural Order set the matter for hearing commencing on August 11, 1999.

After a review of the record, including discovery requests served upon the parties and the status of the law, there were concerns regarding the procedure established to prepare for consultation

1 with the FCC regarding an anticipated § 271 application by US WEST. It was determined that  
2 standards for Operational Support Systems ("OSS") must be clarified before proceeding to a hearing  
3 to determine whether US WEST has met these standards. Further, it was determined that a  
4 collaborative process to assist US WEST in complying with the standards would result in more  
5 expeditious satisfaction of § 271 requirements.

6 Our June 8, 1999, Procedural Order was issued to the parties and asked parties to file  
7 comments regarding the best procedure to achieve an efficient and thorough review of OSS issues.

8 On June 18, 1999, the Commission's Utilities Division ("Staff") filed its Answer to the  
9 questions. On June 22, 1999, the Residential Utility Consumer Office ("RUCO"), MCI WorldCom  
10 ("MCI"), the Telecommunications Reseller Association ("TRA"), e-spire Communications, Inc. ("e-  
11 spire"), Cox Arizona Telcom, Inc. ("Cox"), Electric Lightwave, Inc. ("ELI"), ACI Corp. ("ACI"),  
12 NEXTLINK Arizona, Inc. ("NEXTLINK") Sprint Communications Company L.P. ("Sprint"), AT&T  
13 Communications, Inc. ("AT&T"), TCG Phoenix ("TCG") and US WEST filed their Answers to the  
14 questions.

15 Staff recommends that the Commission consider the results of its own proceedings on service  
16 performance measurement standards and OSS.

17 Staff also recommends that any collaborative process should include written Statements of  
18 Position by the parties on the pertinent issues, as well as group discussions on how best to facilitate  
19 US WEST's compliance with this element of the competitive checklist. Staff and its Consultant  
20 would be willing to facilitate these workshops. Staff proposes that any workshops of this nature be  
21 transcribed. Written positions on pertinent issues should be submitted two weeks prior to the first  
22 workshop.

23 Staff further recommends that any information which would show whether the Competitive  
24 Local Exchange Carriers' ("CLECs") access to US WEST's OSS system is on par with US WEST's  
25 access would be important. A means of making this determination would be through third-party  
26 testing of US WEST's OSS to determine whether it complies with the standard set out in the 1996  
27 Act. Staff and its Consultant are in the process of conducting an evaluation of US WEST's OSS  
28 through test and analysis of measurements of service performance provided by the OSS. The results

1 of the proposed workshops, in combination with Staff's independent evaluation, should be used to  
 2 determine the extent to which US WEST is compliant, and what changes, if any, are necessary to  
 3 achieve compliance. Staff and its Consultant also intend to provide recommendations for necessary  
 4 enhancements to US WEST's OSS to make it § 271 compliant.

5 Staff believes it is important that formal discovery remain in place during the workshop phase  
 6 of OSS. Commission Staff has no suggestions for modifications to the discovery process at this time.  
 7 If formal discovery remains in place during the workshop phase of OSS, it should be structured so as  
 8 not to interfere or conflict with the workshop process.

9 Staff recommended the workshops be conducted so that all parties have a full opportunity to  
 10 participate and give their positions on US WEST's OSS. All parties to this docket should be allowed  
 11 to participate, as well as any other interested parties. Staff recommends that a specific number of  
 12 workshops be scheduled and that the parties be directed to file their positions within the time  
 13 prescribed so that parties do not abuse the process simply to engender delay.

14 Staff recommended a series of three one-day workshops focused on OSS specifically, starting  
 15 in mid-August and spaced at two week intervals. Workshop No. 1 would consist of participants  
 16 explaining previously submitted positions on major issues and responding to questions concerning  
 17 them. Workshop No. 2 would provide an opportunity for participants to respond to positions covered  
 18 in Workshop No. 1. Workshop No. 3 would continue the discussions in an effort to resolve conflicts  
 19 and/or differences in definitions and other matters relative to pertinent OSS issues. Staff also  
 20 recommends that early on in this process, a separate workshop be scheduled to reach agreement or  
 21 consensus on other checklist items, to the extent possible.

22 \* \* \* \* \*

23 Having considered the entire record herein and being fully advised in the premises, the  
 24 Commission finds, concludes, and orders that:

#### 25 **FINDINGS OF FACT**

26 1. The Federal Telecommunications Act of 1996 added § 271 to the Communications  
 27 Act of 1934. The purpose of § 271 is to specify the conditions that must be met in order for the FCC  
 28 to allow a Bell operating company ("BOC"), such as US WEST to provide in-region interLATA

1 services. The conditions described in § 271 are intended to determine the extent to which local phone  
2 service is open to competition.

3 2. Section 271(c)(2)(B) sets forth a fourteen point competitive checklist which specifies  
4 the access and interconnection a BOC must provide to other telecommunications carriers in order to  
5 satisfy the requirements of § 271. Section 271(d)(2)(B) requires the FCC to consult with state  
6 commissions with respect to the BOC's compliance with the competitive checklist. Also, subsection  
7 (d)(2)(A) requires the FCC to consult with the United States Department of Justice.

8 3. On May 27, 1997, the Commission issued Decision No. 60218 and described the  
9 process by which US WEST would submit information for the Commission to review and  
10 recommend to the FCC whether US WEST meets the requirements of § 271 of the  
11 Telecommunications Act of 1996.

12 4. On February 8, 1999, US WEST filed a Notice of Intent to File with FCC and  
13 Application for Verification of § 271(c) Compliance ("Application"), and a Motion for Immediate  
14 Implementation of Procedural Order ("Motion").

15 5. Our March 2, 1999, Procedural Order found the US WEST Application to be  
16 insufficient and not in compliance with Decision No. 60218.

17 6. On March 5, 1999, US WEST filed its supplementation.

18 7. Our March 25, 1999, Procedural Order set the matter for hearing on August 11, 1999.

19 8. Our June 8, 1999, Procedural Order found that a collaborative process was needed to  
20 assist US WEST in determining the OSS standards that need to be set to comply with the § 271  
21 requirements.

22 9. A series of workshops conducted by Staff are necessary to facilitate the collaborative  
23 process.

#### 24 CONCLUSIONS OF LAW

25 1. US WEST is an Arizona public service corporation within the meaning of Article XV,  
26 § 2, of the Arizona Constitution.

27 2. The Commission has jurisdiction over US WEST and over the subject matter of the  
28 application.

3. At this time, it is unclear what standards the Commission should utilize in evaluating whether US WEST OSS complies with § 271.

**ORDER**

IT IS THEREFORE ORDERED that the Director of the Utilities Division shall schedule three workshops to be held over the next 90 days to facilitate a collaborative process to determine OSS standards to satisfy the § 271 requirements.

IT IS FURTHER ORDERED that the collaborative process shall include third-party testing of OSS.

IT IS FURTHER ORDERED that Staff shall file a Report no later than October 15, 1999, setting forth the OSS standards with which US WEST must comply, the extent to which US WEST does comply, and recommendations for necessary changes/modifications for US WEST to comply with the § 271 requirements.

IT IS FURTHER ORDERED that within ten days of the date of this Decision, the Hearing Division shall issue a Procedural Order re-scheduling the hearing on US WEST's § 271 application.

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

    
CHAIRMAN COMMISSIONER COMMISSIONER

IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive Secretary of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this 21<sup>st</sup> day of July, 1999.

  
BRIAN C. McNEIL  
EXECUTIVE SECRETARY

DISSENT \_\_\_\_\_  
JR:bbs

SERVICE LIST FOR:

U S WEST COMMUNICATIONS, INC.'S  
COMPLIANCE WITH § 271 FILING

DOCKET NO.

T-00000A-97-0238

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